

1
2
3
4
5 **UNITED STATES DISTRICT COURT**
6 **DISTRICT OF NEVADA**

7 ALBERTO CARLOS ALFARO IZA,

Case No.: 2:18-cv-02143-KJD-PAL

8 Petitioner

ORDER

9 v.

10 JEFF SESSIONS, et al.,

11 Respondents
12

13 On October 24, 2018, the court dismissed Alberto Carlos Alfaro Iza's 28 U.S.C. § 2241
14 habeas corpus petition without prejudice for failure to file an application to proceed in forma
15 pauperis or pay the filing fee (2:18-cv-01667-GMN-CWH, ECF No. 3). The court further noted
16 that, while unclear, it appeared that that petition might have also been subject to dismissal for
17 lack of jurisdiction. The court directed that if Iza wished to pursue a petition in this court, he
18 must file a new petition setting forth specific allegations regarding any removal proceedings
19 against him and the basis for his citizenship claim and also must submit an application to proceed
20 in forma pauperis or pay the filing fee.

21 Instead, Iza only submitted a new application to proceed in forma pauperis under this
22 new case number with no petition. This is insufficient to open a habeas action. Thus, this case is
23 dismissed without prejudice as improperly commenced.

1 Once again, if Iza wishes to pursue a petition in this court, he must submit an application
2 to proceed in forma pauperis or pay the \$5.00 filing fee in a new case with a new case number.
3 He must also submit—in that new case—a petition that sets forth specific allegations regarding
4 any removal proceedings against him and the basis for his citizenship claim.

5 **IT IS THEREFORE ORDERED** that this action is **DISMISSED** without prejudice to
6 the filing of a new petition in a new action with a properly completed application form to
7 proceed in forma pauperis or the filing fee.

8 **IT IS FURTHER ORDERED** that a certificate of appealability is **DENIED**, as
9 reasonable jurists would not find the court's dismissal of this improperly commenced action
10 without prejudice to be debatable or incorrect.

11 **IT IS FURTHER ORDERED** that the Clerk **SHALL SEND** petitioner two copies of an
12 application form to proceed in forma pauperis for incarcerated persons with instructions.

13 **IT IS FURTHER ORDERED** that the Clerk shall **ENTER JUDGMENT** accordingly
14 and close this case.

15
16
17 Dated: February 28, 2019



KENT J. DAWSON
U.S. DISTRICT JUDGE